IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4605 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

CHAUDHARY RAMESHBHAI MANSHINHBHAI

Versus

TCA RANGADURAI OR HIS SUCCESSOR IN OFFICE

Appearance:

MR KB PUJARA for Petitioner

Mr.A.J.Desai, learned A.G.P. for respondents Nos.1 and 2.

MR HS MUNSHAW for Respondent No. 3

CORAM : MR.JUSTICE M.R.CALLA

Date of decision: 13/03/2000

ORAL JUDGEMENT

Learned counsel for the petitioner has submitted that the ground with regard to the criminal case, for which the impugned order has been passed against the

petitioner, has become non existent as the criminal case itself has been decided by now on 21.1.2000. A xerox copy of the order passed by the Special Judge (Atrocity), Mehsana in Special (Atrocity) Case No.215/97 has been produced before this court. No reply to the petition has been filed. All that has been submitted on behalf of the respondents by the learned A.G.P. is that the order of the Sessions Court dt.21.1.2000 might have been made a subject matter of Appeal before this court. That may be so and in case the order passed by the Sessions Court is reversed by the High Court, the natural consequences would follow at that time. At present it is very clear that the petitioner, who was a member of the Panchayat and against whom it was alleged that he had misbehaved with the District Primary Education Officer, for which a case under the Atrocities Act was registered, has resulted in his favour. Therefore, the whole edifice on which the impugned order has been passed against the petitioner, fails. The impugned order dt.23.2.98 passed by the Development Commissioner and the ultimate order passed by the State Government in Appeal on 17.6.99 therefore cannot be sustained in the eye of law. Both these orders are hereby quashed and set aside. This Special Civil Application is hereby allowed. The petitioner's continuance as a Member of District Panchayat was protected by this Court's order dt.30.6.99 while issuing the 'Rule'. It is declared that the petitioner continues as a Member of the District Panchayat as he was continuing prior to the passing of the impugned orders. Rule is made absolute. No order as to costs.

(M.R.Calla,J)